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GOVERNMENTAL COMMITTEE OF THE EUROPEAN SOCIAL CHARTER

**REPORT CONCERNING
CONCLUSIONS 2004**

*Detailed report of the Governmental Committee
established by Article 27, paragraph 3, of the European Social Charter¹*

¹ The detailed report and the abridged report are available on www.coe.int/T/E/Human_Rights/Esc.

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I. INTRODUCTION

1. This report is submitted by the Governmental Committee of the European Social Charter made up of delegates of each of the thirty-five states bound by the European Social Charter or the European Social Charter (revised)¹. representatives of international organisations of employers and workers (presently the European Trade Union Confederation (ETUC) and the International Organisation of Employers (IOE)) attend in a consultative capacity meetings of the Committee. The Union of Industrial and Employers' Confederations of Europe (UNICE) is also invited to attend but did not participate in meetings in 2004.

2. The supervision of the application of the European Social Charter is based on an analysis of the national reports submitted at regular intervals by the states. According to the Charter, the States Parties are under the obligation to consult the national organisations of employers and the national trade unions on the content of the report. Reports are published on www.coe.int/T/E/Human_Rights/Esc.

3. The first responsibility for the analysis lies with the European Committee of Social Rights (ECSR) (Article 25 of the Charter), whose decisions are set out in a volume of "Conclusions". On the basis of these conclusions, the Governmental Committee (Article 27 of the Charter) draws up a report to the Committee of Ministers which may "make to each Contracting Party any necessary recommendations" (Article 29 of the Charter).

4. In accordance with Article 27 of the Charter, the Governmental Committee has examined national reports submitted by Bulgaria, Cyprus, France, Ireland, Italy, Norway, Romania, Slovenia and Sweden in application of the European Social Charter (revised) and the first national report submitted by Estonia and Lithuania. Reports were due on 30 June 2003 at the latest. The Governmental Committee repeats that it attaches a great importance to the respect of the deadline by the States Parties.

Italy did not present a complete report.

5. Conclusions 2004 of the ECSR were adopted in February 2004 for the following States: Bulgaria, Estonia, France, Norway, Romania, Slovenia, Sweden and in May 2004 for the following States: Cyprus, Ireland, Italy, Lithuania.

6. The Governmental Committee held three meetings (11-14 May 2004, 21-24 September 2004 and 19-22 October 2004), which were chaired by Mrs Marie-Paule URBAIN (Belgium). The list of participants appears in Appendix I.

7. Following a decision in October 1992 by the Ministers' Deputies, observers from member states of central and eastern Europe having signed the European Social Charter or the European Social Charter (revised) (Azerbaijan, Bosnia and

¹ List of the states parties on 1 November 2004 : Albania, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey and the United Kingdom.

Herzegovina, Georgia, the Russian Federation, “the former Yugoslav Republic of Macedonia” and Ukraine) were also invited to attend the meetings of the Governmental Committee, for the purpose of preparing their ratification of this instrument. Since a decision of the Ministers' Deputies in December 1998, other signatory states were also invited to attend the meetings of the Committee (namely Andorra, Liechtenstein, Monaco, San Marino, and Switzerland).

8. The Committee was satisfied to note that since the last supervisory cycle, the following signatures and ratifications had taken place:

- on 21 January 2004 Armenia had ratified the European Social Charter (revised);
- on 23 January 2004 the Netherlands had signed the 1995 Additional Protocol providing for a system of collective complaints, as well as the European Social Charter (revised);
- on 2 March 2004 Belgium had ratified the European Social Charter (revised);
- on 11 May 2004 Bosnia-Herzegovina had signed the European Social Charter (revised);
- on 2 September 2004, Azerbaijan deposited the instrument of ratification of the European Social Charter (revised);
- on 5 October 2004, the Principality of Monaco signed the European Social Charter (revised);
- on 6 October 2004, Turkey signed the European Social Charter (revised) and the Amending Protocol (1991);
- on 7 October 2004, Hungary signed the European Social Charter (revised), as well as the Additional Protocol (1988) and the Collective Complaints Protocol (1995).

9. The state of signatures and ratifications on 1 November 2004 appears in Appendix II to the present report.

II. EXAMINATION OF NATIONAL SITUATIONS ON THE BASIS OF CONCLUSIONS 2004 OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

10. The Governmental Committee examined the situations not in conformity with the European Social Charter (revised) listed in Appendix III to the present report.

11. The Committee took note of the cases where the conclusion is deferred because of new questions put by the European Committee of Social Rights as they appear in Appendix IV to the present report. It asked governments to reply to the questions in their next reports.

12. During its examination, the Committee took note of important positive developments in several States Parties. It invites governments to continue their efforts with a view to ensure compliance with the European Social Charter (revised). In particular, it asked governments to take into consideration Recommendations adopted by the Committee of Ministers. It adopted warning(s) and proposal(s) for recommendation(s) which appear in Appendix V.

13. The Committee proposes to the Committee of Ministers to adopt the following Resolution:

Resolution on the implementation of the European Social Charter (revised) during the period 2001-2002 (“hard core” provisions)

*(Adopted by the Committee of Ministers on
at the meeting of the Ministers' Deputies)*

The Committee of Ministers,¹

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the Governments of Bulgaria, Cyprus, Estonia, France,

¹ At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those States which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia" (entry into force: 30 April 2005), Turkey and the United Kingdom.

Ireland, Italy, Lithuania, Norway, Romania, Slovenia and Sweden (concerning period of reference 2001-2002)¹;

Considering Conclusions 2004 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter;

Recommends in addition that Governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2004 of the European Committee of Social Rights and in the report of the Governmental Committee.

14. Moreover, the Governmental Committee took note of the conclusions of non-conformity relating to Article 12, paragraph 4, but did not consider it possible, in particular for practical and technical reasons, to comply with the requirements following from the interpretation of Article 12, paragraph 4, for the time being. It therefore decided not to take any measures in respect of States concerned and await the next assessment by the ECSR.

EXAMINATION ARTICLE BY ARTICLE

A. CASES OF NON-COMPLIANCE

Article 1§1 – Policy of full employment

BULGARIA

15. The Bulgarian delegate stated that the Government had adopted a new social policy model where employment policy plays a major role. The overall unemployment level as well as the level of long-term unemployment had gone down considerably over the last couple of years, which the Government took as a sign that the employment measures taken had the desired effect. The delegate further stated that Government spending had increased to 0.88% of GDP in 2003.

16. The representative of the ETUC pointed out that the unemployment rate and especially the long-term unemployment rate remained extremely high. He considered that the Committee should ask the Government to ensure that employment measures were adequately targeted towards the vulnerable groups in the labour market.

17. The Maltese and Portuguese delegates supported the ETUC proposal.

¹ As far as Bulgaria, Cyprus and Estonia are concerned, the beginning of the reference period coincided with the entry into force of the European Social Charter (revised) for each of these States.

18. The Committee took note of the information provided, but expressed its concern at the situation, in particular as regards long-term unemployment. It called upon the Government to intensify its employment policy efforts to bring the situation into conformity.

Article 1§2 – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

BULGARIA

19. With regard to the first ground of non-conformity, the Bulgarian delegate confirmed that there is a 6-month salary ceiling for damages in cases of discriminatory dismissal. However, he informed the Committee that under a new anti-discrimination statute that entered into force on 1st January 2003, there is no limitation in the amount of damages available to workers who are dismissed on discriminatory grounds. The new legislation also provides for the setting up of an administrative body to counteract discrimination in employment, which may impose fines up to 10,000 €. He stated that relevant information on the implementation of these provisions will be duly submitted to the ECSR.

20. With regard to the second ground of non-conformity, the Bulgarian delegate stated that the relevant provision of the Labour Code was probably not sufficiently clear to the ECSR. He pointed out that under the Labour Code, foreign workers working for foreign employers operating in Bulgaria may agree in their employment contract to be submitted to the foreign jurisdiction of the place of residence of the employer but that if they do not do so, they are covered by Bulgarian law and by Bulgarian courts' jurisdiction.

21. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

CYPRUS

22. With regard to the first ground of non-conformity, the Cypriot delegate expressed surprise at the ECSR's findings and acknowledged that this was probably due to the fact that the situation was not clearly explained in the report. She stated that foreigners were only granted residence permits if they had passed the "labour test". They must be offered a job in Cyprus before they actually enter the country and therefore no question of discrimination against them with regard to access to employment could arise.

23. The Greek delegate acknowledged that there must have been a misunderstanding on the legal situation.

24. The Romanian delegate requested more detailed information.

25. The Secretariat quoted the Cypriot report stating that foreigners can be employed in any field of employment as long as no Cypriot is available and willing to fill the particular vacancy. In reply to a question from the Maltese delegate, the

Secretariat stated that the Conclusion of the ECSR was not based on freedom of movement but on discrimination in access to employment.

26. The Greek delegate explained that foreigners may work only if they are “invited” in the country and that they are “invited” only if there are no Cypriot citizens available or interested in a particular job. He considered that the matter should be dealt with under Article 18.

27. The representative of the ETUC suggested that the Committee requests to the Cypriot authorities to make clear, in their next report, whether there are differences between the situation of European Union (EU) nationals and that of nationals of Contracting Parties, which are not members of the EU.

28. The Committee requested that precise information be provided in the next report and decided to await the next assessment of the ECSR.

29. With regard to the second ground of non-conformity, the Cypriot delegate stated that the Ministry of Defense had prepared a bill that would modify the situation although she was not aware of its contents. The bill would be shortly presented before the House of Representatives.

30. The Greek delegate considered that the matter was very delicate and that the Committee should wait until the ECSR receives more detailed explanations about the contents of the bill.

31. The Dutch delegate agreed with the Greek delegate but proposed that the Committee expresses its hope that the bill would bring the situation in conformity with the revised Charter.

32. The representative of the ETUC suggested that the proposal from the Dutch delegate should include a Call to bring the situation in conformity as soon as possible.

33. The Secretariat suggested that the Cypriot authorities make sure that the bill complies with the revised Charter before passing it.

34. The Cypriot delegate stated that according to the information given by the Ministry of Defence, the issue of the length of service of persons granted the status of conscientious objectors had been reconsidered since the last examination of the case and that the draft Bill contained provisions which reduced the duration of alternative civil service and non-armed military service from 42 and 34 months respectively to 38 and 33 respectively. Moreover, as explained by the Ministry of Defence the service for conscientious objectors was justifiably longer, as armed military service is much more difficult by its nature. It requires hard military training, irregular hours of service, participation in military exercises and other activities which conscientious objectors are not required to do.

35. The Committee took note of the information provided by the Cypriot delegate; insisted that the conclusion of the ECSR be taken into account in the Parliamentary

discussion about the new bill; and decided to await the next assessment of the ECSR.

FRANCE

36. With regard to the first ground of non-conformity, the French delegate confirmed the findings of the ECSR. She stated that the French Government considered that there were objective grounds why only some selected guides may work in restricted areas of national monuments. The grounds were that these personnel were given special security training for the specific national monument in which they are employed and that they hold all relevant keys. Another ground why other guides are not permitted to work in restricted areas of national monuments is that, should their behaviour cause any accident, they could trigger the manager's liability although they are not submitted to his or her authority.

37. The Portuguese and Greek delegates noted that only a small number of national monuments and tourist guides were concerned.

38. The representative of the ETUC recalled that the question of the small number is not relevant since the ECSR has adopted a conclusion of non-conformity and that the situation in France has been addressed in a recommendation of the Committee of Ministers, one of the rare recommendations (if not the only one) in a collective complaint procedure.

39. The French delegate replied that the recommendation in question was adopted because the French Government had failed to respond adequately. France has since undertaken a number of actions to follow the recommendation.

40. The Committee took note of the information provided by the French delegate and decided to await for the next assessment of the ECSR.

41. With regard to the second ground of non-conformity, the French delegate stated that given the international security situation and international obligations undertaken by France under the International Code of Maritime Security and under Convention No. 185 of the ILO, captains and first officers of the merchant navy hold a certain degree of authority, including the possibility to carry out identity controls. She stated that for the time being, France has no intention to amend the nationality requirement as far as international navigation is concerned. However, French authorities might decide to take a different approach in respect of local navigation is concerned.

42. The German delegate recalled that States must find a balance between individual rights and collective security. He wondered whether the ECSR would take into account the explanation of the French Government.

43. The Greek delegate stated that the intervention of the French delegate showed that there were justified problems and that the French Government should explain its position further in its next report.

44. The Danish delegate recalled that many other domestic legislations have similar requirements and that the balance between individual rights and collective security is not an easy question. She expressed some sympathy with the arguments of the French delegate.

45. The Committee took note of the information provided by the French delegate and noted that it is the first time that the situation is not in conformity on this ground. It decided to await the next assessment of the ECSR.

IRELAND

46. The Irish delegate confirmed the information provided in the national report. He stated that there was a clash between the legal situation and the situation in practice. Legally speaking, Army officers commit themselves to serve until retirement and if they wish to quit the armed forces they must repay part of the cost of their training. In practice, most of those who wish to leave are allowed to do so without conditions. There was a problem in the past with regard to pilots: many were tempted to quit the service to join civilian airlines offering better pay. Given the small size of the Irish armed forces and given that pilot training was long and expensive, the defection of large numbers of experienced pilots would put at risk the proper functioning of the Air service, which was not only in charge of air defense but also of search and rescue operations. He stated that search and rescue activities were gradually being delegated to a separate civilian coast guard so that, in practice, there would soon be no more need to keep Army pilots in service for long periods of time. He stressed that the matter had been raised with the Department of Defense and that it was part of a general commitment of the Irish Government to review and address cases of non-conformity with the revised Charter raised by the ECSR.

47. The representative of the ETUC welcomed this commitment and stressed that, given the changes of the situation in practice the legal framework should also be changed.

48. The German delegate recalled that Army officers were employed on the basis of a contract that they had voluntarily entered in; that they were highly qualified people who had undergone a long and costly professional training; that they could not be replaced overnight; and that the situation was virtually the same in all armies.

49. At the request of the Romanian delegate, the Irish delegate explained that officers were due to serve for life but that many of them actually quit after 10 years of service.

50. The Maltese delegate raised a point of order stating that it was up to the ECSR to assess the conformity of the required length of service.

51. The Committee took note of the information provided by the Irish delegate and of the Irish Government's commitment to review the situation. It insisted that the situation be brought in conformity with the revised Charter as soon as possible.

ROMANIA

52. The Romanian delegate stated that a draft statute amending the rules on compulsory military service had been presented to cabinet in March 2004. According to the new rules, the length of alternative service would be reduced to 12 months and to 6 months in the case of persons with higher education.

53. Following a question from the representative of the ETUC, she stated that she did not have information on when the reform would be adopted and on why there would be a difference in the length of alternative service between persons with or without higher education.

54. The Committee took note of the information provided by the Romanian delegate and urged the Government to speed up the alternative service reform. Meanwhile, it decided to await the next assessment of the ECSR.

Article 5 – Right to organise

BULGARIA

55. The Bulgarian delegate said that the conclusion had been examined by her Government, with a view to remedying the violation. As part of the process of transposing the Community *acquis*, new legislation was currently being drawn up that would prohibit any discrimination. The new law provided for compensation with no upper limit. Reinstatement was also possible if the victim wished it.

56. The Committee invited the Bulgarian Government to supply full information on the new legal situation in the next report on this provision.

FRANCE

57. The French delegate recalled the historic role of the CGT in the book sector. She highlighted the developments in the situation; it was now no longer necessary to belong to a trade union and employers could recruit staff without going through the CGT (the daily newspaper *Libération* was an example). The labour inspectors had also been instructed to supply the Government with their findings on this subject. The survey that the Ministry of Labour, Social Affairs and Solidarity intended to conduct to establish the number of CGT members employed in this sector, the number of members of other unions and the number of non-union members, to which the ECSR referred in its conclusion, was not considered to be a current priority. This also had to be seen in the context of the low rate of union membership in France.

58. The representative of the IOE declared being opposed to the notion of a trade union monopoly on placements.

59. The Cypriot delegate referred to the Committee's concerns about the equivalent situation in Sweden. The French and Romanian delegates said that the situation in France was a marginal one since it only concerned one sector. No parallels could therefore be drawn.

60. The Portuguese delegate and the representative of the ETUC said that the survey to which the ECSR referred was very important.

61. The Committee invited the Government to give priority to this survey, which could show that the *de facto* trade union monopoly in the book sector had ceased to exist.

IRELAND

62. After recalling the historical background to the current system, the Irish delegate reported two developments since the last report. First, the Minister of Justice had drawn up independent reports on the legislation in relation to equality in employment. An inter-departmental group had then been instructed to examine all the cases of non-compliance with the revised Charter, with priority given to Articles 5 and 6.

63. In reply to the Cypriot delegate and the representative of the ETUC, who asked for confirmation, that considerable progress in particular concerning the protection against dismissal was achieved before the next report, the Irish delegate said that the report was currently under consideration by the various departments concerned and that no timetable could be announced. Once the Government had tabled legislation, the legislative process would take about two years. A report could be expected from the interministerial group around 2005, the aim being to find ways of remedying the violations and submitting them to the social partners for negotiation.

64. The Cypriot and Maltese delegates stressed the need to remedy these serious violations of the revised Charter as soon as possible.

65. The Committee took note of the Government's intention to bring the situation into line with the revised Charter and the steps taken to achieve this. However, it recalled that these were longstanding failures of compliance and that the Committee of Ministers had already issued recommendations. The Committee urged the Government to give priority to Articles 5 and 6 of the revised Charter, particularly with regard to the arrangements for protecting striking workers against dismissal, and asked for visible signs of progress in the next report.

LITHUANIA

66. The Lithuanian delegate said that his Government agreed that the legislation was not fully in line with Article 5 of the revised Charter and had given the Conclusion of the ECSR close attention. Several problems had also been revealed with regard to ILO conventions. As a result, Resolution 67 of 21 January 2003 had been adopted to encourage the development of social partnership. A revised version of the Trade Union Act had since been drawn up, which would repeal the provision that was in breach of Article 5. However, the complexity of the legislation meant that the revision process would take some time. The next step was to submit the revised text to the Tripartite Council of Lithuania and the ILO for opinions.

67. The Committee was concerned about the violation of such a fundamental right as the right to organise and noted the government's intention to rectify the violation of Article 5 of the revised Charter and the steps it had taken to do so. The new trade union legislation must be fully in conformity with this provision.

ROMANIA

First and third grounds for non-conformity

68. As the ECSR had noted that the situation had been brought into conformity outside the reference period, the Committee decided to await the next assessment of ECSR.

Second ground for non-conformity

69. The Romanian delegate said that since the presentation of the report the police forces had been demilitarised, other than certain special forces. Coupled with the new legislation on public servants, this change should improve the situation of police forces with regard to Article 5. Membership of the national police association was optional for police officers and its functions were laid down in Section 49§1 of Act No. 360/2002.

70. The Committee invited Romania to supply full information in the next report on this provision.

Fourth ground for non-conformity

71. The Romanian delegate had no new information on this point other than that her Government was committed to amending the legislation.

72. The Committee decided to await the next assessment of the ECSR.

SWEDEN

73. The Swedish delegate said that his Government had always preferred dialogue to any form of intervention. As the Committee of Ministers had noted in Resolution ResChS(2003)1, in connection with Collective Complaint No. 12/2002 (Confederation of Swedish Enterprise v. Sweden), the Swedish Government had undertaken to bring the situation into conformity with the Revised Social Charter and a negotiation process aimed at abolishing closed shop clauses in the Swedish labour market had been embarked upon. The number of clauses was diminishing: 9 000 agreements included one in 2002, 4 000 in 2003, 3 280 in April 2004. The BWTU had issued instructions to its members not to use such clauses in future. It had also announced that such clauses would cease to exist by 1 July 2005.

74. The Committee noted that it was firmly opposed to closed shop clauses in any form. It took note of commitment of the Government to remedying the violation via negotiation and of the date announced for compliance to be achieved.

Article 6§2 – Negotiation procedures

IRELAND

75. See the information on Article 5 of the revised Charter.

Article 6§3 – Conciliation and arbitration

BULGARIA

76. The Bulgarian delegate said that his Government had examined the conclusion with a view to remedying the violation. With the help of ILO technical assistance in 2002, it had been possible to draw up amendments to the rules applicable to the public service and steps had been taken to set up consultative machinery. Following this activity, a tripartite seminar had been held and a group of experts set up to revise the legislation on the public service.

77. The Committee urged the Bulgarian Government to remedy the violation and to supply full information on changes in the situation in the next report on this provision.

SLOVENIA

78. The Slovenian delegate acknowledged that the report had been unclear on the subject of compulsory arbitration. The principle of free determination was critical for the settlement of disputes. Under Section 26 of the Labour and Social Courts Act, where an arbitration council could not be established because one of the parties had not appointed an arbitrator or the arbitrators could not agree on the president of the arbitration council, the arbitrator or president concerned was appointed by the labour court of first instance on the proposal of the parties or of an arbitrator. However the relevant court only ruled on the appointment of the arbitrator or the president of the arbitration council, not on the dispute itself. The labour court's decision could not substitute for that of the parties, which could only be reached through collective bargaining.

79. The Committee asked the Government to include all this information in the next report.

Article 6§4 – Collective action

BULGARIA

First ground for non-conformity

80. The Bulgarian delegate said that his Government had made efforts to settle this matter and that numerous consultations had been held, particularly with the Committee on Freedom of Association. Draft legislation had been prepared, which granted the right to strike in the distribution and energy sectors. However opposition

from the ministries concerned had prevented progress in the telecommunications and health sectors. The Constitutional Court had ruled that a work interruption in the telecommunications sector could threaten people's lives and its decisions were binding on any public institution.

Second ground for non-conformity

81. The Bulgarian delegate said that under the amended legislation on the public service (referred to in connection with Article 6§3), it was planned to grant public officials the right to strike and to establish a minimum service in certain cases.

Third ground for non-conformity

82. The Bulgarian delegate said that the legislation denied defence ministry officials, members of the armed forces and employees of any other bodies of the Ministry of Defence the right to strike and that the Constitutional Court considered that the armed forces were required at all times to protect national security and defend the country.

83. The Belgian delegate said that Bulgaria's international commitments were also binding on the courts.

84. The Committee was concerned about the violation of such a fundamental right as the right to strike and asked the Bulgarian Government to supply full information on progress regarding each of the grounds for non-conformity in the next report on this provision.

CYPRUS

First ground of non-conformity

85. The Cypriot delegate informed the Committee that the Labour Advisory Board had approved an amendment drafted by the Ministry of Labour and Social Insurance that brought the situation in conformity with the revised Charter. The amendment would be submitted to the Council of Ministers before the end of the year.

Second ground of non-conformity

86. The Cypriot delegate informed the Committee that the social partners had signed an agreement that had been countersigned by the Minister of Labour and Social Security in March 2004 regulating the right to strike in essential services. The agreement included a strict definition of what constituted an essential service in accordance with the requirements of the ECSR and the ILO Committee of Experts, laid down the procedures to be followed in case of a deadlock in a dispute in essential services and provided for a minimum service. Moreover, the legal service of the Republic had been requested to repeal Regulations 79A and 79B, which had been considered to infringe the Charter.

87. The Committee took note of these measures, which were aimed to bring the situation in conformity with the revised Charter and decided to await the next assessment of the ECSR.

ESTONIA

88. The Estonian delegate said that the use of strikes was an exceptional method of enforcing demands in Estonia. However the conclusion was being taken into account and efforts would be made to remedy the violation.

89. The Committee urged the Estonian Government to remedy the violation and supply full information on progress in the next report on this provision.

FRANCE

90. Regarding the first ground of non-conformity – the fact that only the most representative trade unions had the right to call strikes in the public sector – the French delegate referred to the principle of continuity of public service, which had to be reconciled with the right to strike. It appeared from the conclusion of the ECSR that it now considered it important not to attach too many formalities to the constitution of trade unions. In fact the French system was fairly flexible, so that under the relevant legislation it was possible to constitute trade unions at all levels.

91. The representative of the ETUC said that in its conclusion the ECSR argued that the constitution of trade unions should not be subject to excessive formalities, but restricting the right to call strikes to the most representative organisations nationally was an aggravating circumstance.

92. The Deputy Executive Secretary of the European Social Charter *ad interim* said that the non-conformity finding was based on the issue of representativity.

93. The Maltese delegate said that the representativity issue was crucial and agreed with the representative of the ETUC.

94. The President and the Dutch and Portuguese delegates thought that this reflected a change in the ECSR's case-law on the constitution of trade unions and asked for more information.

95. The French delegate expressed surprise that the ECSR had not taken into account the fact that a locally representative trade union could also issue a strike notice without having to establish its national representativity.

96. The Deputy Executive Secretary of the European Social Charter *ad interim* said that this comment would be passed on to the ECSR.

97. The Committee reiterated its commitment to the right to strike and asked the Government to clarify the situation regarding representativity in its next report.

98. As regards the second ground of non-conformity – the fact that the deductions of striking state employees were not always proportional to the duration of the strike

– the French delegate again explained that this was based on an accounting rule that had been confirmed by the Constitutional Council in 1987. In practice, no public sector strikes lasted less than a day.

99. The representative of the ETUC said that the rule had been strictly applied in the education sector, where a one hour strike had been treated as corresponding to a day. On the previous occasion the Committee had voted on a warning that had not been adopted. The Cypriot and Maltese delegates agreed and argued that if it was not necessary to adopt a warning France should be invited to pay close attention to the Conclusion of the ECSR.

100. The Committee urged France to bring the situation into conformity with Article 6§4.

IRELAND

101. The Irish delegate said that the legal situation had not changed since the last report. He referred to the information he had supplied on Article 5 of the revised Charter.

102. The Committee noted the Government's intention to bring the situation into conformity with the revised Charter and the steps taken to achieve this. However, it recalled that these were longstanding failures of compliance and that the Committee of Ministers had already issued a recommendation. The Committee urged the Government to give priority to Articles 5 and 6 of the revised Charter and asked for visible signs of progress in the next report.

LITHUANIA

First ground of non-conformity

103. The Lithuanian delegate explained that Article 77.1 of the Labour Code, which had also been criticised by the ILO, had been introduced after a major strike of bus and tram drivers. The move had been preceded by long negotiations and consultations with the Tripartite Council. In response to the ECSR conclusion the matter might be reviewed but as yet there had been no high level discussions on the subject.

104. The representative of the ETUC referred also to the ILO case law and found that this important situation in principle called for a warning. Bearing in mind that this was a first time negative conclusion he asked that the situation should be brought into conformity within a short time-frame.

105. The Committee was concerned by the violation of such a fundamental right as the right to strike and asked the Lithuanian Government to do all in its power to bring the situation into line with the revised Charter.

Second ground of non-conformity

106. The Lithuanian delegate said that the strike ban in Article 78.1 of the Labour Code only applied to public/centralised enterprises (ie major suppliers) in the electricity, district heating and gas supply sectors. Employees of privatised firms in these sectors did have the right to strike. As with any reform, there was the option of referring the matter to the Tripartite Council so that it could assess the situation and propose solutions.

107. The Committee was concerned by the violation of such a fundamental right as the right to strike and asked the Lithuanian Government to do all in its power to bring the situation into line with the revised Charter.

ROMANIA

108. The Romanian delegate referred to the new Trade Union Act, No. 54/2003, which strengthened trade union powers. Her Government also intended to table amendments to the legislation on collective agreements, particularly provisions relating to the representativeness condition.

109. The Committee took note of the Government's intention to amend the legislation and remedy the violation.

SWEDEN

110. The Swedish delegate referred to the justification for strike notices, which was to give the other party time to organise and the mediator time to respond. In 2003, the electricians' union called a strike in breach of the rules, with an insignificant period of notice of half a day. One hundred persons were on strike for a week. The mediator brought court proceedings against the union and asked for a fine of 50,000 Swedish crowns (SEK). After an agreement had been reached the union had agreed to pay 40,000 SEK. This sort of case should not occur often because the mediator preferred prevention and informal methods of settling disputes. Moreover, the machinery was flexible and made it possible to take account of unions' size and financial resources.

111. The representative of the ETUC said that unions' assets did not necessarily last for ever and that disproportionate fines could act as a disincentive.

112. In reply to the representative of the ETUC, the Swedish delegate said that the system was fairly new and would be assessed in a few years' time. It involved a body of rules that were adopted when the office of mediator was established.

113. The Committee urged the Swedish Government to take steps to remedy the violation. The fines should not be so high as to threaten trade unions' activities and it asked the Government to supply full information in the next report on this provision.

Article 7§1 – Prohibition of employment under the age of 15

BULGARIA

114. The Bulgarian delegate stated that the next report would clarify certain aspects of the ILO study on child labour referred to by the ECSR; for example the figures referred to included children who help out their families on an ad hoc basis for a limited period of time. According to the Labour Inspectorate, only 0.6% of infringements of the Labour Code concerned infringements of child protection legislation.

115. Nevertheless measures have been taken to combat and prevent illegal child labour by the Government; the resources of the Labour Inspectorate have been increased, media campaigns have been undertaken and there has been social dialogue on the issue.

116. The Committee considered the situation to be a serious one. In particular, it was concerned about the percentage of children under 15 working illegally. While noting the efforts taken by the authorities to tackle the problem, it called on the Government to take further concrete measures and highlighted the importance of adopting a coherent strategy in this domain to bring the situation into conformity.

CYPRUS

117. The Cypriot delegate informed the Committee that the Government intended to remedy the situation and that discussions with the social partners were underway.

118. The Committee notes the intention of the Government to bring the situation into conformity and urged Cyprus to do so as soon as possible. It decided to await the next assessment of the ECSR.

ESTONIA

119. The Estonian delegate explained that the Employment Contracts Act covered only children working in family enterprises who had a labour contract. There was no legislation covering domestic work. Information would be provided in the next report on the Child Protection Act which is of relevance in this area.

120. Estonia had ratified ILO Convention No. 182 on the Worst Forms of Child Labour and was preparing to ratify ILO Convention No. 189 on Child Labour in Agriculture it had not ratified Convention No. 138 on Minimum Age for Employment.

121. The Government would consider introducing any necessary amendments to bring the situation into conformity in the future.

122. The representative of the ETUC expressed major concern about the fact that Estonia had not ratified ILO Convention 138 which is one of the 8 fundamental ILO conventions and forms part of the 1998 ILO Declaration on Fundamental Rights at Work.

123. The Committee expressed concern at the situation and urged the Government to take all necessary measures to actually prohibit child labour in order in all economic sectors to bring the situation into conformity with the revised Charter.

IRELAND

124. The Irish delegate informed the Committee that it was difficult to regulate the work of children working on family farms or in family businesses, it was difficult in this respect to distinguish between family duties and work in the proper sense. It was incorrect to state that children working for a close relative were not covered by any regulations at all, although they were not covered by the Protection of Young Persons (Employment) Act 1996 they were in fact covered by the Council Directive 94/33/EC (although not by the legislation transposing this Directive) and by health and safety legislation. In addition if a child's schoolwork or school attendance was suffering the education authorities would intervene, and if there was serious exploitation or abuse the child protection authorities would take the necessary measures.

125. Further in practice it was a declining problem; there were fewer family farms and small family businesses.

126. The Irish Government were preparing to review all legislation which was not in conformity with the revised Charter, and as part of this review the issue of children working for a close relative would be examined.

127. The President and other delegates recalled that Article 7§1 of the revised Charter requires all children under the age of 15 to be protected, it prohibits the employment of children under 15 years of age except in certain defined tasks characterised as light work, which must be regulated. The President highlighted the problems, which could arise where this group of children were excluded from the protection of the legislation.

128. The representative of the ETUC stated that the core problem was that there was no specific legislation for this group of children, referring to health and safety in general was not sufficient. Although the situation was changing in that there were fewer family farms and businesses, it was still tempting for family business to employ children as they would not then be the subject of controls.

129. The Dutch delegate supported the views expressed by the representative of the ETUC and highlighted that Article 7 formed part of the hard core of the revised Charter. She stated that the Irish Government must review this as a priority.

130. The Maltese delegate echoed the views expressed by the delegate for the Netherlands, and pointed out that where children were employed by close relatives there was a potential for abuse; early morning work, late work etc.

131. The Greek delegate supported by other delegates stated that it was reassuring that health and safety legislation applied, but that rest periods and holiday periods etc, must be regulated. He urged the Irish Government to examine the situation.

132. The Committee expressed concern at the situation of children under 15 years of age working for a close relative, as this group of children were not covered by the Protection of Young Persons (Employment) Act 1996. It took note of the Irish Government's intention to review the legislation and insisted that the problem be

examined. It requested that all the necessary further information be supplied in the next report to enable the ECSR to assess the extent of the problem and information on the progress made in remedying the situation.

ITALY

133. The Italian delegate stated that the survey carried out by the National Institute of Statistics (ISAT) and the ILO, referred to by the ECSR, demonstrated that the situation in practice was not as serious as originally estimated to be or as serious as that in other Contracting Parties. However the Italian Government has taken a wide-ranging series of measures to address the problems of illegal child labour and its causes. The Italian delegate outlined some of these measures, which include a Programme of Action, a special training programme for the Labour Inspectorate, and family support policies. She emphasised her Government's commitment to the eradication of the exploitation of children.

134. The Committee acknowledged the importance of the measures outlined by the Italian Government to tackle the problem and welcomed them. It expressed the hope that the de facto situation would soon be in conformity with the revised Charter.

ROMANIA

135. The Romanian delegate outline the measures that have been taken in Romania to combat illegal child labour in particular under the IPEC programme.

136. The Committee expressed concern at the seriousness of the situation; in particular it noted the current figures available on the number of children of compulsory school age illegally employed. It noted that Romania had developed a strategy to combat child labour, but nevertheless urged the Government to do all it could to remedy the situation. In this respect it highlighted the importance of conducting a comprehensive survey to discover more accurately the extent of the problem since this would help in identifying the necessary measures to bring the situation into conformity.

Article 7§2 – Prohibition of employment under the age of 18 for dangerous activities

FRANCE

137. The French delegate stated that the French report had not been very accurate as regards the minimum ages for employment for dangerous activities: while general statutory provisions set 16 years as the minimum age for employment in certain activities regarded as dangerous or unhealthy the more specific texts often provided for a higher age. She stated that the law could be amended to make the situation clearer.

138. As regards the employment of persons under 18 years of age who had completed their training, in activities considered as dangerous or unhealthy this concerned mainly young persons between 17 and 18 years of age, who had

completed the relevant training and were qualified to carry out the work in question. She stated that it would be difficult to prevent such persons from seeking and obtaining work that they had been trained and were qualified to perform.

139. The Committee took note of the information; it asked the Government to provide all the relevant information in the next report and decided to await the next assessment of the ECSR.

SWEDEN

140. The Swedish delegate stated that there was strong protection in Sweden for young workers; this included far reaching duties on employers to ensure young worker safety and health. The general rule was that young persons under 18 years of age could not be employed in occupations deemed dangerous and unhealthy however there are two exceptions to the rule, one of which concerned persons below the age of 18 who had completed the relevant training. In these cases a special permit is required from the Work Environment Authority (WEA), which assesses each case on an individual basis and includes an assessment of the maturity of the minor and his/her understanding of the risks as well as an assessment of the employer's awareness of health and safety matters. In 2002 only 15 such permits were granted and these to persons of 17 years of age doing summer work.

141. The Committee took note of the information provided and decided to await the next assessment of the ECSR.

Article 7§3 – Prohibition of employment of children subject to compulsory education

BULGARIA

142. The Bulgarian delegate referred to his statement under Article 7§1.

143. The Committee referred to its decision under Article 7§3.

CYPRUS

144. The Cypriot delegate referred to her statement under Article 7§1.

145. The Committee referred to its decision under Article 7§1.

ESTONIA

146. The Estonian delegate referred to her statement under Article 7§1.

147. The Committee referred to its decision under Article 7§3.

IRELAND

First ground of non-conformity

148. The Irish delegate stated that school holidays in Ireland were long during the summer (12 weeks) and that the legislation provided for a compulsory rest period of 21 days before the beginning of the new school year. The Irish Government believed that 21 days was adequate and that it would be contrary to the best interests of many children to increase the length of the compulsory rest period, as summer work provided not only a source of income but was important for their development and for many children there was little else to do during this period. The Irish delegate recalled that children of compulsory school age were subject to limits on their daily and weekly working hours.

149. The Luxembourg delegate sought clarification that the situation outlined by the Irish delegate referred even to those of 14 and 15 years.

150. The representative of the ETUC recalled that this situation had been found not to be in conformity since Conclusions II (1971) and that a recommendation had been addressed to Ireland on the point. He pointed out that Irish legislation permitted children of 14 and 15 years to work for two months during the summer holidays.

Second ground of non-conformity

151. The Irish delegate referred to his statement under Article 7§1.

152. The Committee expressed its concern that the situation was still not in conformity. It recalled the terms of Recommendation No. R CS (95) 6, which remains in force and urged Ireland to bring the situation into conformity as soon as possible. In particular it highlighted that Article 7 forms part of the hardcore of the revised Charter.

ITALY

153. The Italian delegate referred to her statement under Article 7§1.

154. The Committee referred to its decision under Article 7§1.

NORWAY

155. The Norwegian delegate stated that the school summer holidays in Norway for children still subject to compulsory education amounted to 8 weeks and the legislation provided that the compulsory rest period must amount to 2 weeks of this period. She stated that neither the Educational Authority of Norway nor the Ministry of Education considered that this was problematic.

156. However the relevant legislation was under revision. Currently it was being circulated for comments and the delegate would remind the Ministry responsible for the revision of the finding of non-conformity on this ground and request that they take this into account in the revision.

157. The Committee asked the Government to take into account the finding of non-conformity in the revision of the legislation.

ROMANIA

158. The Romanian delegate referred to his statement under Article 7§1.

159. The Committee referred to its decision under Article 7§3.

SWEDEN

160. The Swedish delegate highlighted that there was strong protection for young workers in Sweden. She provided details of the legislation and stated that the school summer holidays in Sweden were between 10 to 12 weeks which was long by European standards. The law provided for a compulsory rest period of 4 weeks which in fact exceeded the compulsory rest period in European countries where the holidays were shorter.

161. Neither the National Agency for Education nor the Ministry for Education believed that the standards laid down in the legislation negatively affected the education of young persons.

162. The Committee asked that the ECSR when establishing fixed yardsticks under its case law to consider, in addition, setting 'a minimum'.

163. The Committee took note of the information provided. It considered that the situation in Sweden was not a particularly serious one. However it asked the Government to take into account the findings of the ECSR in order to bring the situation into conformity.

Article 7§4 – Length of working time

BULGARIA

164. The Bulgarian delegate referred to his comments under Article 7§1.

165. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

Article 7§5 – Fair pay

BULGARIA

166. The Bulgarian delegate referred to his comments under Article 7§1.

167. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

IRELAND

168. The Irish delegate confirmed that pursuant to the National Minimum Wage Act, the minimum wage for workers under 18 years of age was 30% lower than that of adult workers. This provision was recommended by the National Minimum Wage Commission so that young people would be discouraged to leave Education to enter in low paid employment.

169. The representative of the ETUC stated that, although the Minimum Wage Act rationale was acceptable, the situation had been found not to be in conformity with the revised Charter by the ECSR and the Government had expressed no intention to amend it.

170. The Dutch delegate recalled that the Netherlands faces a similar problem and share the Irish Government's views on the need to keep young people in education as long as possible so that they would be offered better jobs in the future.

171. The Maltese delegate stated that there were no objective reasons why a young worker who is about to reach 18 should be paid 30% less than one who is already 18. He added that keeping the minimum wage for young workers at such a low level could profit employers looking for cheap labour.

172. At the request of the Greek delegate, the Irish delegate stated that the report did not focus on the reasons why the minimum wage for young workers was lower than that of adult workers but that the preparatory works of the Minimum Wage Act had been sent to the ECSR on the occasion of previous reports. He added that the issue would be part of the general review on compliance with the revised Charter but that strong opposition to a change of the minimum wage rate could be expected.

173. The representative of the ETUC suggested that the Irish Government explore alternative means to encourage young people to remain in the education system.

174. The Irish delegate indicated that some alternative means had already been taken into consideration but that the money factor had a very strong appeal with young people. He stated that all the views expressed in the Committee will be taken into account to review the situation.

175. The Greek delegate acknowledged the validity of the Irish Government's argument but agreed with the ETUC for the need to look for alternative means.

176. The Committee took note of the valid arguments of the Irish Government but requested that the Government look for alternative means that would encourage young people to remain in the education system, while increasing the minimum wage level of young workers between 16 and 18 years of age. The Committee decided to await the next assessment of the ECSR.

ITALY

177. The Italian delegate confirmed the information provided in the report. She stated that legal provisions governing apprentices' allowances had always been in conformity with the revised Charter. Pursuant to Article 36 of the Constitution young people have a right to the same level of remuneration than adult workers when they perform the same kind of work. Pursuant to Act No. 25 of 19 January 1955 apprentices are entitled to 70% to 90% of the minimum wages set in national collective agreements, of which she provided some examples. She finally stated that national courts have the power to raise levels of remuneration that would not match these standards.

178. The representative of the ETUC recalled that on the previous occasion the Committee addressed a warning to Italy and considered that the warning should be maintained.

179. The Italian delegate did not understand why there was a need for a warning since the report provided all the necessary information.

180. The Secretariat confirmed that the report provided information on the legal situation but did not provide any information on the level apprentices' allowances as set in national collective agreements. It explained that Conclusion of the ECSR was due to repeated lack of figures in this respect.

181. The Dutch delegate, joined by the Irish delegate, considered that there was no need for a second warning because the previous warning was still in force.

182. The Committee took note of the information provided by the Italian delegate: asked the Italian Government to provide detailed information in its next report; and considered that the warning previously addressed to Italy was still in force.

NORWAY

183. The Norwegian delegate confirmed that there is no legislation on minimum wages in Norway and stated that it had not been possible to gather all the necessary information although some data on the average wages of young workers were sent to the Secretariat in January 2003.

184. The Executive Secretary of the European Social Charter confirmed that the information provided in the letter had not been taken into account by the ECSR.

185. The Committee took note of the information provided by the Norwegian delegate and decided to await the next assessment of the ECSR.

SLOVENIA

186. The Slovenian delegate informed the Committee that the figures provided in the report did not reflect the real situation. She pointed out that apprentices work mostly part-time and that the minimum wage level quoted in the conclusion was not

correct. She stated that more detailed information would be provided in the next report and that there could be amendments to relevant legislation.

187. The Committee took note of the information provided by the Slovenian delegate, asked that relevant figures be provided in the next report and decided to await the next assessment of the ECSR.

Article 7§6 – Time spent on vocational training

BULGARIA

188. The Bulgarian delegate referred to his comments under Article 7§1.

189. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

Article 7§7 – Paid annual holidays

BULGARIA

190. The Bulgarian delegate referred to his comments under Article 7§1.

191. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

Article 7§8 – Prohibition of night work

BULGARIA

192. The Bulgarian delegate referred to his comments under Article 7§1.

193. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

Article 7§9 – Regular medical examination

BULGARIA

194. The Bulgarian delegate referred to his comments under Article 7§1.

195. The Committee took note of the information provided by the Bulgarian delegate and decided to await the next assessment of the ECSR.

SWEDEN

196. The Swedish delegate stated that there had been no changes in the legal situation but that the protection level of health and safety at work remained very high. She observed that in 2003 there had been only 200 accidents involving young workers while no cases of work-related illness had been detected.

197. The Dutch delegate pointed out that although there is no express legal provision for regular medical examinations, examinations are carried out when necessary and the preventive measures appear to be effective.

198. The Committee took note of the information provided by the Swedish delegate and asked the Government to provide evidence that the protection level afforded by the Swedish system is equivalent to the right provided in the revised Charter. Meanwhile, it decided to await the next assessment of the ECSR.

Article 7§10 – Protection against physical and moral dangers

SLOVENIA

199. The Slovenian delegate indicated that the Criminal Code was amended in March 2004: the possession and distribution of pornographic material to persons under the age of 14 have been criminalised.

200. The Committee welcomed the change in the legislation and decided to await the next assessment of the ECSR.

Article 12§1 – Existence of a social security system

BULGARIA

201. The Bulgarian delegate stated that everything possible was being done to improve the situation. Average unemployment benefit levels had gone up by 10% in recent years, but as far as unemployment benefits were concerned the Government considered it necessary to maintain a certain distance to the level of the minimum wage in order to motivate the unemployed to take up employment. The old-age pension had been increased twice since the reference period under consideration and also the pension ceiling had been increased. He pointed out that there was no official poverty threshold in Bulgaria, but surveys on poverty had been undertaken recently and reports would be published soon with view to taking measures to combat poverty.

202. The delegate added that, in general, the trend was for increasing social security benefit levels and the Government was trying to reach the levels required by the Charter, but it would inevitably take time.

203. The representative of the ETUC emphasised that in order to improve the situation the levels of benefits would have to increase at a rate over and above the rate of increase in general income levels.

204. The Maltese delegate noted that the ECSR had now for the first time defined a specific yardstick under Article 12§1 in addition to those existing under Article 12§2 based on the European Code of Social Security.

205. The Committee took note of the information provided by the Bulgarian delegate, in particular as regards the economic situation, and asked the Government to increase its effort to comply with Article 12§1 of the revised Charter.

ESTONIA

206. The Estonian delegate stated that during the part of the reference period the risk of unemployment was covered only by the non-contributory state unemployment allowance. However, an insurance-based unemployment benefit system has now been introduced and she further noted that over time an increasing proportion of the work force would be eligible for the earnings related unemployment insurance benefit. She said that her Government is aware that the state unemployment allowance is low, but the Government recently decided to raise the level of the social assistance allowance and this provides an important financial safety net for the poor.

207. The Committee took note of the information provided by the Estonian delegate, in particular as regards the new unemployment insurance benefit and the economic situation, and noted the Government's efforts to comply with Article 12§1 of the revised Charter.

LITHUANIA

208. The Lithuanian delegate acknowledged that social security benefits for the elderly were very low, but they had already increased considerably in 2003 and 2004. Moreover, draft legislation was in preparation which would further increase the benefit. He further indicated that few persons were concerned (about 1,100 persons) and that elderly families were under certain circumstances entitled to supplementary benefits in the form of social assistance allowances.

209. As regards unemployment benefits, the Lithuanian delegate said that a new law had been adopted in December 2003 which not only increased benefit levels but also extended the maximum benefit period from 6 to 9 months and facilitated access to early retirement benefits. Finally, the delegate asked the Secretariat to elaborate on the ECSR's case law under Article 12§1 which had gained a lot of media attention in Lithuania as it appeared to be the first time that a conclusion of non-conformity of the ECSR was reached under this provision.

210. The Secretariat confirmed that it was indeed the first time that conclusions of non-conformity had been reached on this ground, but the ECSR had always held under Article 12§1 that social security benefits must be efficient and adequate. The new development was that, as opposed to the past, the ECSR now systematically made reference to the poverty threshold (defined as 50% of median equivalised

household income) when assessing benefit levels. It should also be that it was the first time that the ECSR had been confronted with benefits that were so low. The Estonian delegate noted that according to the Article 4§1 the minimum wage should be no less than 60% of average wage. Considering that the Social Security Code establishes a minimum level of unemployment insurance benefit of 45% from previous earnings, the minimum unemployment benefit could be less than the poverty threshold. However, still current social security systems were in compliance with Article 12§1. Did the recent case law conclusions mean that there should be a higher minimum standard set for social security? In reply to a question from the Estonian delegate the Secretariat explained that the poverty threshold is different from the 60% wage threshold applied under Article 4§1. In effect, the poverty threshold defined as indicated above is an extremely low threshold which in the ECSR's view constitutes an absolute minimum under Article 12§1.

211. The Spanish delegate said that it was obvious that the benefits under consideration were extremely low and he wondered why the states concerned had ratified Article 12 in the first place. However, since the Committee was supposed to look at the economic and political aspects of situations he suggested that it take a flexible approach and give countries the time necessary to raise the standards. His viewpoint was supported by the Greek and Irish delegates.

212. The Committee took note of the information provided by the Lithuanian delegate and asked the Government to increase its effort to comply with Article 12§1 of the revised Charter.

ROMANIA

213. The Romanian delegate explained the method used to calculate social security benefits and the system of pension points. She emphasised that according to her information the level of the various pensions under the Law on Public Pensions met the requirements of the European Code of Social Security. As regards the very low farmers' pensions, this had previously been an optional pension, but it had now been integrated under the Law on Public Pensions and benefit levels would increase. She pledged that detailed information would be included the next report.

214. The Committee took note of the information provided by the Romanian delegate and asked the Government to increase its effort to comply with Article 12§1 of the revised Charter.

Article 12§4 – Social security of persons moving between states

CYPRUS – ESTONIA – FRANCE – IRELAND – ITALY – LITHUANIA – NORWAY – ROMANIA – SLOVENIA

Common issues

215. The President, referring to the discussion that had taken place at the 107th meeting, proposed to deal collectively with the issues of the residence requirement in respect of children re payment of child benefits and accumulation of insurance or employment periods.

216. The representative of the ETUC said that as a matter of principle national situations should be dealt with individually and that if a collective approach was nevertheless embarked upon it should be an exception without any precedent for the future.

217. The Maltese delegate proposed that the Committee refer to the practical and technical difficulties in implement the legal interpretation adopted by the ECSR and he further suggested that the Committee ask the ECSR to explain how the interpretation could be implemented in practice. The German and Spanish delegates supported this proposal.

218. The Turkish delegate said that it was not merely a technical problem, but a question of the human rights of migrant workers. Having participated in CS-CO meetings he did not consider the memorandum on Article 12§4 drafted by this committee to be objective in any meaning of the word.

219. The Estonian delegate said that there was a collision between the rights of children and the rights of migrant workers and she did not understand why the rights of migrant workers should automatically take precedence.

220. The Lithuanian delegate pointed out that different countries had different systems and he considered that the Charter allowed room for choice.

221. The Committee took note of the conclusions of non-conformity reached by the ECSR but did not consider it possible, in particular for practical and technical reasons, to comply with the requirements following from the interpretation of Article 12§4 for the time being. It therefore decided not to take any measures in respect of countries concerned and await the next assessment of the ECSR.

Specific issues

CYPRUS

222. The Cypriot delegate stated that her authorities were examining the possibility of remedying the problem of the residence requirement for access to social pensions in the context of an overall pension reform which would expectedly be adopted in 2005.

223. The Committee took note of the intentions of the Government and expressed the hope that the situation would be brought into conformity in due time for the next supervision cycle.

FRANCE

224. The French delegate acknowledged that under the social security agreement between France and Turkey a difference in the age below which French and Turkish children are considered to have “dependent” status remained. She emphasised, however, that:

- the agreement between France and Turkey was unilateral;
- the rules governing dependent’s benefit (ICF) was not connected to French legislation; and
- school attendance levels for corresponding age groups was lower in Turkey. Furthermore, the age limit for Turkish children had evolved having initially been fixed at 15 years before being increased to 16 years and then 18 years if the child was enrolled in education (for French nationals the age limit was 20 years). She noted that this information had not been included in the French report.

225. The Committee took note of the new elements provided and decided to await the next assessment of the ECSR.

LITHUANIA

226. The Lithuanian delegate said that the problem of the length of residence requirement mainly concerned old-age pensions for certain categories of persons, but it was likely that the requirement would be lifted as part of a forthcoming pension reform.

227. The representative of the ETUC wondered whether this problem would be solved by a reform of the contributory pension system and pointed out that the problem identified by the ECSR also concerned certain non-contributory benefits.

228. The Committee urged the Government to do its utmost to bring the situation into conformity and decided to await the next assessment of the ECSR.

ROMANIA

229. The Romanian delegate indicated that her Government was committed to concluding bilateral agreements where necessary with all the States Parties so as to ensure the principle of retention of accrued benefits. She gave examples of recent agreements concluded and of on-going negotiations.

230. The Committee noted the Government’s intention and decided to await the next assessment of the ECSR.

SLOVENIA

231. With respect to medical care, the Slovenian delegate confirmed that if foreigners not permanently resident in Slovenia are not insured on the basis of bilateral agreement they are in principle obliged to pay for medical care. However, if they are unable to pay the cost will be carried by the state budget, because nobody in need will be denied medical help. She further recalled that the length of residence required for obtaining permanent residence status would be reduced to five years.

232. The Committee urged the Government to do its utmost to bring the situation into conformity and decided to await the next assessment of the ECSR.

233. As regards the nationality and length of residence requirements applicable to the parental allowance, the Slovenian delegate referred to her statement under Article 16.

234. The Committee referred to its decision under Article 16.

Article 13§1 – Adequate assistance for every person in need

BULGARIA

235. The Bulgarian delegate made reference to economic factors as discussed under Article 12§1. He further said that his Government is committed to combating poverty and currently working with the World Bank to establish an official national poverty line. He also noted that the guaranteed minimum income (GMI) had been increased by 6% since the end of the reference period under consideration. Moreover, he explained that the differentiated minimum income could under certain circumstances and for certain target groups reach a level twice as high as the GMI.

236. The Committee took note of the information provided and asked the Government to do its utmost to bring the situation into conformity with the revised Charter. It decided to await the next assessment of the ECSR.

ESTONIA

237. The Estonian delegate announced that a bill was before Parliament which would increase significantly the level of the subsistence minimum from its current level of 500 Estonian kroons (EEK) to 750 EEK as from 2005. The delegate emphasised that housing costs are paid as part of social assistance within limits established by the local authorities. She also pointed out that the subsistence minimum does not include housing costs whereas certain poverty thresholds do in fact include these costs.

238. The Committee welcomed the new legislation underway and decided to await the next assessment of the ECSR.

FRANCE

1) Length of residence requirement for access to the guaranteed minimum income (RMI)

239. The French delegate first of all recalled that the RMI is not the only measure available to foreigners in need of social assistance and that the length of residence requirement is only applicable to persons with temporary residence permits. In addition, various categories of foreigners were exempted from the requirement. The list of exempted persons had been extended by legislation adopted in 2003, so obviously the number of persons affected by the requirement was very limited.

240. The representative of the ETUC requested clarification as to whether the length of residence requirement was applicable to EU/European Economic Area (EEA) nationals. The French delegate replied that this was not the case.

241. The Cypriot delegate said that it was for the ECSR to assess the new exemptions, but the Committee should call on France to bring the situation into conformity with the revised Charter.

242. The Committee took note of the information provided and urged the Government to bring the situation into conformity. It decided to await the next assessment of the ECSR.

2) age limit

243. The French delegate recalled that the age limit for entitlement to RMI was a political choice made by the Government and that a variety of measures was in place to address the needs of young persons, aimed in particular at their integration in the labour market. She further noted that poverty among young people in France is below the EU average. Replying to a question from the Luxembourg delegate she confirmed that young persons participating in the various measures are remunerated at a rate which is usually higher than the RMI.

244. The German, Irish and Spanish delegates considered that the situation was justified in view of the explanations given.

245. The Cypriot, Icelandic, Maltese and Romanian delegates as well the representative of the ETUC considered that a basic right was at stake here which should not be denied to persons under the age of 25. They suggested that a strong message be sent to the Government.

246. The Committee acknowledged the various measures taken by the Government in respect of young people, but expressed its concern at the discrimination of the 18-25 years age group and asked that the situation be brought into conformity with the Charter. It decided to await the next assessment of the ECSR.

IRELAND

247. The Irish delegate confirmed that the legal situation had not changed. He said that no country could leave the door completely open to “social tourism, but emphasised that there was no problem in practice since nobody was refused necessary medical aid. He added that also this conclusion by the ECSR would be the subject of the Government’s review of existing problems of compliance with the revised Charter.

248. The Cypriot delegate and the representative of the ETUC noted that there was no intention on the part of the Government to change the situation and suggested that the Committee vote on a warning.

249. The Committee voted on a warning, which was not carried (14 votes in favour, 9 against and 8 abstentions). The Committee asked the Government to bring the situation into conformity with the revised Charter and decided to await the next assessment of the ECSR.

LITHUANIA

250. With respect to the level of social assistance benefits, the Lithuanian delegate referred to the economic situation in his country and to his explanations in this respect under Articles 12§1 and 16. He said that a new child benefit had been introduced in July 2004 and an increase in the state-supported income was under consideration.

251. The Committee took note of the information provided and urged the Government to bring the situation into conformity. It decided to await the next assessment of the ECSR.

252. As regards the length of residence requirement, the Lithuanian delegate said that a new law was being prepared which would ensure that in the future certain benefits could also be granted to temporary residents.

253. The Committee took note of the new legislation in preparation and decided to await the next assessment of the ECSR.

Article 13§3 – Prevention, abolition or alleviation of need

LITHUANIA

254. The Lithuanian delegate referred to his statement under Article 13§1.

255. The Committee referred to its decision under Article 13§1.

Article 16 – Right of the family to social, legal and economic protection

BULGARIA

256. As to the first ground of non-conformity, the Bulgarian delegate indicated that the amount of the child allowance had increased.

257. As to the second ground of non-conformity, the Bulgarian delegate affirmed that the legislation ensure equal access to benefits and social services, including for Roma people. He also indicated many measures adopted to improve the housing situation of Roma.

258. The Committee took note of the evolution in the amount of the benefits and of the measures taken for the Roma population. It asked the Government to undertake any possible effort to improve the situation, to provide all necessary information in the next report, and decided to await the next assessment of the ECSR.

LITHUANIA

259. As to the first ground of non-conformity, the Lithuanian delegate indicated that as from 1 July 2004 a new system of family benefits, which will progressively extend the benefits to all children (by 2009) was introduced.

260. As to the second ground of non-conformity, the Lithuanian delegate explained that it was foreseen to change the legislation to extend the entitlement to benefits to non-permanent residents.

261. The Committee took note of the evolution in the system of family benefits and of the intention to change legislation on the residence requirement. It asked the Government to undertake any possible effort to improve quickly the situation, to provide all necessary information in the next report, and decided to await the next assessment of the ECSR.

ROMANIA

262. As to the first ground of non-conformity, the Romanian delegate provided a list of improvements carried out as regards the types and the amounts of family benefits, which are constantly inflation-related.

263. As to the second ground of non-conformity, the Romanian delegate explained that privatisation of the state owned dwelling caused a reduction of the social housing stock. Many families look for better and bigger dwellings. The state launched several programmes for the building and rebuilding of dwellings, especially targeted to young people.

264. As to the third ground of non-conformity, the Romanian delegate indicated that an office for Roma issues was established as a Government Department. The delegate confirmed that Roma are guaranteed equality in the legislation, but *de facto* discrimination indeed occur because they lack identity documents and birth certificates or because they are reluctant to inscribe themselves in the municipal

rolls. Within the context of the Phare programme, a project aiming at solving the problem of legal status of Roma has been launched for the period 2004-2006.

265. The representative of the ETUC asked for specific information on housing measures for Roma. The Romanian delegate answered that they are covered by the general housing policy but that the matter would be given due consideration.

266. As regards all grounds of non-conformity, the Committee took note of the information, with a particular attention for the issue of Roma housing, asked the Government to provide it in the next report, and decided to await the next assessment of the ECSR.

SLOVENIA

267. As to the first ground of non-conformity, the Slovenian delegate indicated that the residence requirement of 8 years governing entitlement to family benefits, set by the Aliens Act, stopped to apply to EEA citizens as from 1st May 2004. For other non-nationals an amendment to bring the length of the requirement from 8 to 5 years is expected by 2006.

268. The Committee, on suggestion of the representative of the ETUC and Cyprus, welcomed the intention to improve the situation, but urged the Government to do more since reducing the residence requirement from 8 to 5 years does not bring the situation into conformity with the Charter.

269. As to the second ground of non-conformity, the Slovenian delegate recognised that citizenship and length of residence requirements are still the two conditions applying to the parental allowance and the partial payment for lost income. She also indicated the Government intention of lifting the citizenship condition, but with no timeframe suggestion.

270. The Committee, on suggestion of the representative of the ETUC and Cyprus, welcomed the intention to change the legislation and urged the Government to do it quickly.

271. As to the third ground of non-conformity, the Slovenian delegate confirmed that Roma are guaranteed equality in the legislation concerning family benefits and that 90% of them live on social assistance and family benefits. She added that Roma are often not inclined to regulate their legal status. The representative of the ETUC underlined that it is the state responsibility to take measures to improve the legal status of Roma.

272. The Committee took note of the information, asked the Government to provide it in the next report, with special attention to the measures taken as regards the issue of Roma legal status, and decided to await the next assessment of the ECSR.

Article 19§4 – Equality regarding employment, right to organise and accommodation

and

Article 19§10 – Equal treatment for the self-employed

SLOVENIA

273. The Slovenian delegate stated that she agreed with the finding of non-conformity of the ECSR. She expected that a draft bill would delete the citizenship requirement regarding access to low-rent housing for migrant workers.

274. The Committee noted with satisfaction that a new law was in preparation and asked that it be adopted as soon as possible. It decided to await the next assessment of the ECSR.

Article 19§6 – Family reunion

and

Article 19§10 – Equal treatment for the self-employed

CYPRUS

275. The Cypriot delegate stated that a new Aliens Law is currently being drafted which contains provisions limiting the grounds for refusal of family reunification on health reasons to those diseases mentioned in the WHO regulations. She stated that the law will be sent to Parliament by the end of 2004.

276. The Committee welcomed the new draft legislation and decided to await the ECSR's next assessment.

ESTONIA

277. The Estonian delegate stated that several amendments have been made to the Aliens Act. Furthermore, the Citizens of the European Union Act entered into force in May 2004. She hoped to provide more information in the next report. In reply to a question from the representative of the ETUC, she stated that the amendments most probably only cover rights of nationals of EU states.

278. The representative of the ETUC noted that the 5 year residence requirement for non EU and non EEA nationals seemed to remain in force. He stated that Estonian legislation should be in conformity with the Charter for all migrant workers. He was supported by the Cypriot and Maltese delegates.

279. The Committee noted with satisfaction that there was new legislation improving the situation, albeit only for nationals of EU and EEA states. The Committee urged that the situation also be remedied for all other migrant workers.

IRELAND

280. The Irish delegate stated that Ireland had just become an immigration country. A committee set up by the Government is to examine all aspects of migration next year giving priority to family reunion.

281. The Committee took note of the Government's intention and asked the Government to bring the situation in conformity with the revised Charter as soon as possible.

Article 19§7 – Equality regarding legal proceedings and Article 19§10 – Equal treatment for the self-employed

LITHUANIA

282. The Lithuanian delegate explained that a first reading of a new version of the law on legal assistance took place in August 2004 and will subsequently be sent to Parliament. This draft law stipulates that all foreigners, irrespective of duration of residence in Lithuania, may have access to legal aid.

283. The Committee took note of this information and hoped that the draft law would be adopted as soon as possible. It decided to await the next assessment of the ECSR.

SWEDEN

284. The Swedish delegate explained that there is actually no domicile requirement with regard to legal proceedings. Migrant workers who reside legally in Sweden, either permanently or temporarily, may have access to legal aid.

285. The Committee noted this information with satisfaction and asked that the next report contain this information. It decided to await the next assessment of the ECSR.

Article 19§8 – Guarantees concerning expulsion and Article 19§10 – Equal treatment for the self-employed

CYPRUS

286. The Cypriot delegate stated that a new Aliens Law is currently being drafted which contains provisions limiting the grounds for expulsion on health grounds to those diseases mentioned in the WHO regulations. She stated that the law will be sent to Parliament by the end of 2004.

287. The Committee welcomed the new draft legislation and decided to await the next assessment of the ECSR.

IRELAND

288. The Irish delegate confirmed the information in the report on means of appeal against deportation decisions. He stated that the Government will look into the matter to see whether it could be brought into conformity with the revised Charter, but more time was needed on the issue.

289. The Cypriot delegate was concerned that, despite two Recommendations, the Government had not announced its intention of introducing a system of appeal to an independent body. Both she and the representative of the ETUC, who referred to the fact that this situation had been criticised by the ESCR for more than a quarter of a century, asked that the situation be brought into conformity with the revised Charter as a matter of priority.

290. The French, Italian, German and Spanish delegates considered that there was no need for a third recommendation since the situation was being examined.

291. The Committee took note of the Government's intention to examine the situation. It recalled the remaining validity of the two recommendations and urged that the Government remedy the situation in due time, before the next report.

SLOVENIA

292. The Slovenian delegate confirmed that migrant workers could be expelled for lack of sufficient financial resources. She stated that such an expulsion occurred rarely and the consequences such a measure would have for the migrant worker were taken into account. In reply to a question by the Dutch delegate, she explained that under Slovenian law a residence permit is made conditional on subsistence.

293. The Cypriot delegate and the representative of the ETUC stated that this was a serious situation. Noting that the Government had no intention of remedying the situation they said the Committee should adopt a warning.

294. The Committee adopted a warning by 18 votes in favour, 5 against, and 7 abstentions.

SWEDEN

295. The Swedish delegate stated that the Government intends to bring the situation in conformity with the revised Charter. A Commission of Enquiry appointed by the Government, is to analyse whether there should be legislative changes to the Act of Special Control of Aliens. The Commission is expected to report on this issue by March 2005, after which a bill may be drafted.

296. The Committee took note of the efforts of the Government to remedy the situation and decided to await the next assessment of the ECSR.

MISCELLANEOUS

297. The Executive Secretary of the European Social Charter pointed out that when new bills are under preparation texts of the drafts or draft amendments should be brought to the attention of the Committee, either in the original language or in translation into one of the official languages of the Council of Europe. In addition, information as to the legislative phase in which the drafts find themselves in and their full reference numbers should be forwarded.

298. Whereas some delegates raised technical as well as more fundamental problems the representative of the ETUC welcomed this proposal because it would help to better understand any good intentions referred to in the debates of this Committee. The proposal was also supported by other Government representatives.

Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination

SWEDEN

299. The Swedish delegate provided information not appearing in the report in order to give a broader overview going beyond a mere description of the unemployment system: level of compensation (about 80% of previous salary), statistics on part-time work (32% of women, compared with 9.7% of men), statistics on the proportion of employees not qualifying for unemployment benefit because they worked less than 20 hours (4.7% of the labour force - 6.4% of women compared with 3.2% of men; 23% of part-time employees – 20% of women compared with 33% of men). These figures showed that while it was true that a higher proportion of women did not qualify for unemployment benefit, the number of employees concerned was nevertheless very low; 93-94% of women were covered. The set threshold of 20 hours a week resulted from the need to establish a definite link with the labour market, given that the purpose of unemployment benefit was to compensate for loss of income from work. Moreover, those not qualifying for unemployment benefit were entitled to social welfare. The Swedish delegate also pointed out that this situation was at odds with community law since the ECJ appeared to accept this kind of system. However, the conclusion of the ECSR was taken seriously by the Swedish Government and was being examined within a study aimed at revising sex discrimination legislation. Discussion would be held on this point, in particular with both sides of industry and the NGOs, in autumn 2004.

300. The Cyprus delegate, backed by the IOE representative, stressed that Article 20 of the revised Charter applied to everyone and the prohibition of all discrimination was a matter of principle and not of figures. However, they thought that the Committee had to take account of the fact that the conclusion was being examined by the Government and that draft legislation was planned.

301. The Portuguese delegate thought that the statistical elements provided confirmed that there was indirect discrimination but, given Sweden's long tradition of equality, the Committee could await the assessment of developments of the ECSR.

302. The Danish delegate pointed out that there was nothing to prohibit the setting of thresholds for granting unemployment benefits and, consequently, differences in treatment were inevitable. Moreover, the question raised here – indirect discrimination – did not concern the revised Charter alone and the assessments made within other international bodies should be taken into consideration.

303. The Maltese delegate said that social security came under Article 12 of the revised Charter, and paragraph 2 of that article was fulfilled if the State complied with the European Code of Social Security. Sweden complied with that Code and with Article 12§2. Consequently, while opposing all forms of discrimination, he had difficulty in understanding the logic of the link between Article 20 and Article 12 of the revised Charter.

304. The Committee noted that the Swedish Government had taken the conclusion of the ECSR into consideration. It asked that the conclusion be duly taken into account in the planned study and that developments be indicated in the next report. It decided to await the next assessment of the ECSR.

B. DEFERRED CASES FOR REPEATED LACK OF INFORMATION

- **Cyprus : Article 19§9**
- **France : Articles 19§§6, 11 and 12**
- **Norway: Article 1§2**
- **Romania : Articles 1§1, 1§3, 6§1, 7§4, 7§5, 7§8, 7§9**
- **Slovenia : Article 1§1, 7§9, 13§3, 19§3, 19§11**

CYPRUS

305. The Cypriot delegate indicated that the requested information would be contained in the next report.

FRANCE

306. The French delegate indicated that the requested information would be contained in the next report.

NORWAY

307. The Norwegian delegate indicated that the requested information would be contained in the next report.

ROMANIA

308. The Romanian delegate said that not all of the information requested was available in official statistics and asked what to do in such situations.

309. The Secretariat explained that more limited information or estimates, for instance based on surveys or scientific studies could also be helpful to the ECSR in such situations.

SLOVENIA

310. The Slovenian delegate indicated that the requested information would be contained in the next report.

Appendix I

LIST OF PARTICIPANTS

1. 106th meeting: 11-14 May 2004
2. 107th meeting: 21-24 September 2004
3. 108th meeting: 19-22 October 2004

ALBANIA / ALBANIE

Mr Arben SIMAKU, Conseiller du Ministre du Travail et des Affaires sociales (1, 2, 3)

Mrs Albana SHTYLLA, Director of the Legal Department, Ministry of Labour and Social Affairs (3)

ARMENIA / ARMENIE

Mr Aleksandr KOSTANYAN, Head of the Division of International Relations, Ministry of Labour and Social Affairs (1, 2)

AUSTRIA / AUTRICHE

Mrs Elisabeth FLORUS, Federal Ministry of Economic Affairs and Labour (1, 2, 3)

BELGIUM / BELGIQUE

Mme Marie-Paule URBAIN, Conseillère, SPF Emploi, Travail et Concertation sociale, Services du Président (1, 2, 3)

M. Laurent BAUDOUX, Conseiller adjoint, SPF Emploi, Travail et Concertation sociale, Services du Président (1, 2, 3)

BULGARIA / BULGARIE

Mr Nikolay NAYDENOV, Head of International Organizations Section in International Relations Unit of Directorate for European Integration and International Relations, Ministry of Labour and Social Policy (1, 2, 3)

Ms Elitza SLAVCHEVA, Expert, International Organizations Section, Directorate for European Integration and International Relations, Ministry of Labour and Social Policy (1)

CROATIA / CROATIE

Mr Nenad KAZIJA, dipl. iur, Junior Adviser, Directorate for Labour and Labour Market, Department for European Integration and International Cooperation in the Area of Labour and Social Security, Ministry of Economy, Labour and Entrepreneurship (1, 2, 3)

CYPRUS / CHYPRE

Ms Lenia SAMUEL, Permanent Secretary, Ministry of Labour and Social Insurance (1, 2, 3)

Ms Elena DAMIANOU, Ministry of Labour and Social Insurance (2)

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Ms Zuzana SMOLÍKOVÁ, Head of the Unit for Integration of Foreigners, Ministry of Labour and Social Affairs (1, 2)

Ms Regina HOPLÍCKOVÁ, Officer of the Unit for Integration of Foreigners, Ministry of Labour and Social Affairs (1, 2, 3)

DENMARK / DANEMARK

Ms Dorte Rievers BINDSLEV, Senior Adviser, Ministry of Social Affairs (1, 2, 3)

Mr Kim TAASBY, Special Adviser, Ministry of Employment (1, 2)

Mr Leo TORP, Head of Section, The National Directorate of Labour (2)

Mr Einar EDELBERG, Ministry of Employment (1)

Ms Birgit SØLLING OLSEN, Director of Shipping Policy, Danish Maritime Authority, Ministry of Trade and Industry (1)

ESTONIA / ESTONIE

Mrs Merle MALVET, Head of Social Security Department, Ministry of Social Affairs (1, 2, 3)

FINLAND / FINLANDE

Mrs Riitta-Majja JOUTTIMÄKI, Ministerial Adviser (Legal Affairs), Ministry of Social Affairs and Health (1, 2, 3)

Mrs Liisa SAASTAMOINEN, Senior Officer, Legal Affairs, Ministry of Labour (1, 2, 3)

FRANCE

Mme Jacqueline MARECHAL, Chargée de mission au Bureau des Relations européennes, Ministère des Affaires sociales, du Travail et de la Solidarité (1, 2, 3)

GERMANY / ALLEMAGNE

Ms Iris KROENING, Head of Division, Federal Ministry of Economics and Labour (3)

Mr Holger MAUER, Verwaltungsangestellter, Federal Ministry of Economics and Labour (1, 2, 3)

Ms Christiane KOENIG, Oberregierungsrätin, Federal Ministry of Economics and Labour (2)

GREECE / GRECE

Mr Grigoris GEORGANES-KLAMPATSEAS, Official, Department of International Relations, Ministry of Employment and Social Welfare (1, 2)

Ms Panagiota CHONDROU, Official, Ministry of Employment and Social Welfare (2, 3)

Ms Kakara PARASKEYH, Ministry of Employment and Social Welfare (3)

Ms Vasiliki MAKRI, Ministry of Education and Religious Affairs (2, 3)

Ms Evangelia BAGGE, General Secretariat of Social Security (2)

Ms Panagiota ZABRA, Manpower Employment Organization (1, 2)

Ms Paraskevi KAKARA, Official, Department of International Relations, Ministry of Labour and Social Security (1)

M. Konstadinos GOGOS, Ministère de la Défense (1)

Mme Stella MANTZIARI, Ministère de la Défense (1)

Mme Militsa PISIMISI, OAED, Office pour l'Emploi et la Main d'œuvre (1)

Mme Louisa KYRIAKAKI, Ministère de l'Intérieur (1)

Mr Ioannis TASSOPOULOS, Head of Section, Ministry of Health and Social Solidarity (1)

HUNGARY / HONGRIE

Mr László BENCZE, Legal Expert, Ministry of Health, Social and Family Affairs (2, 3)

Mr György KÖNCZEI, Expert, Adviser, Ministry of Employment and Labour (1)

ICELAND / ISLANDE

Mrs Hanna Sigrídur GUNNSTEINSDÓTTIR, Director, Ministry of Social Affairs (1, 3)

IRELAND / IRLANDE

Mr John B. McDONNELL, International Officer, International Desk, Employment Rights Section, Department of Enterprise, Trade and Employment (1, 2, 3)

Mr Robert AHERN, Industrial Relations Section, Department of Enterprise, Trade and Employment (2)

ITALY / ITALIE

Mme Giorgia DESSI, Dipartimento per le Politiche del Lavoro e dell'Occupazione e Tutela dei Lavoratori, Direzione Generale per la Tutela delle Condizioni di Lavoro, Divisione II - Affari internazionali, Ministero del Lavoro e delle Politiche Sociali (1, 2, 3)

LATVIA / LETTONIE

Mr Ingus ALLIKS, Deputy State Secretary, Ministry of Welfare (1, 2)

LITHUANIA / LITUANIE

Mr Povilas-Vytautas ZIUKAS, Deputy Director, Department of the Social Policy Analysis and Forecasting, Ministry of Social Security and Labour (1, 2, 3)

LUXEMBOURG

M. Joseph FABER, Conseiller de Direction première classe, Ministère du Travail et de l'Emploi (1, 2, 3)

MALTA / MALTE

Mr Edward GATT, Director General, E.U. and International Affairs, Ministry for the Family and Social Solidarity (1, 2, 3)

MOLDOVA

Mrs Ala LIPCIU, Head of Foreign Relations Department, Ministry of Labour and Social Protection (1, 2, 3)

NETHERLANDS / PAYS-BAS

Mrs Claudia J. STAAL, Senior Policy Adviser, Directorate for International Affairs, Ministry of Social Affairs and Employment (1, 2, 3)

Ms. A.C.W. (Daniëtte) DE GROOT, Ministry of Justice, Department of Immigration Policy (3)

NORWAY / NORVEGE

Ms Else Pernille TORSVIK, Adviser, Ministry of Labour and Social Affairs (1, 2, 3)

POLAND / POLOGNE

Mme Joanna MACIEJEWSKA, Conseillère du Ministre, Département des Analyses Economiques et des Prévisions, Ministère de la Politique Sociale (1, 2, 3)

PORTUGAL

Mme Maria Josefina LEITAO, Présidente de la Commission pour l'égalité dans le travail et l'emploi (1)

Ms Maria Alexandra PIMENTA, Official, Department of European Affairs and International Relations, Governmental Office, Ministry of Labour and Solidarity (1, 2, 3)

ROMANIA / ROUMANIE

Ms Cristina ZORLIN, Expert, Directorate for External Relations and International Organisations, Ministry of Labour, Social Solidarity and Family (1, 2, 3)

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mrs Zora BAROCHOVA, State Councillor, Department of EU Affairs and International Relations, Ministry of Labour, Social Affairs and Family (3)

SLOVENIA / SLOVENIE

Mrs Jana TESTEN, Head of the International Cooperation and European Affairs Department, Ministry of Labour, Family and Social Affairs (2)

Mrs Natasa LUZAR, Adviser, International Cooperation and European Affairs Department, Ministry of Labour, Family and Social Affairs (1, 2, 3)

SPAIN / ESPAGNE

Mme Belén LÓPEZ LÓPEZ, Conseillère technique, Sous-Direction générale des Relations internationales, Ministère du Travail et des Affaires sociales (1, 2, 3)

M. Crispin PÉREZ REDONDO, Directeur des Programmes, Sous-Direction générale de Réglementation juridique de la Sécurité sociale, Ministère du Travail et des Affaires sociales (2, 3)

SWEDEN / SUEDE

Ms Emma BOMAN LINDBERG, Head of Section, Division for Labour Law and Work Environment, Ministry of Industry, Employment and Communications (1, 3)

Mr Örjan HÄRNESKOG, Deputy Director, Legal Secretariat, Ministry of Industry, Employment and Communications (1)

TURKEY / TURQUIE

Mr Levent GENÇ, Deputy Director General, Ministry of Labour and Social Security (Çalışma ve Sosyal Güvenlik Bakanlığı) (1, 2, 3)

UNITED KINGDOM / ROYAUME-UNI

Mr Tudor ROBERTS, ILO, UN & CoE (Employment) Team, Joint International Unit, Dept for Work and Pensions / Dept for Education and Skills (1, 2, 3)

Mr Stephen RICHARDS, ILO, UN & CoE (Employment) Team, Joint International Unit, Dept for Work and Pensions / Dept for Education and Skills (1, 2, 3)

Ms Sara BRATTAN, ILO, UN & CoE (Employment) Team, Joint International Unit, Dept for Work and Pensions / Dept for Education and Skills (1, 2, 3)

Ms Carol WHEELER, International Relations Division, Department of Trade and Industry (1)

**EUROPEAN TRADE UNION CONFEDERATION /
CONFEDERATION EUROPEENNE DES SYNDICATS**

Mr Klaus LÖRCHER, ETUC Legal Adviser, Head of Department for European and International Legal Affairs, Vereinte Dienstleistungsgewerkschaft – Verdi, Bundesvorstand – Ressort 5 – Recht (1, 2, 3)

M. Stefan CLAUWAERT, NETLEX Coordinator, Institut syndical européen, Confédération européenne des Syndicats (1, 2, 3)

**UNION OF INDUSTRIAL AND EMPLOYERS' CONFEDERATIONS OF EUROPE /
UNION DES CONFEDERATIONS DE L'INDUSTRIE ET DES EMPLOYEURS D'EUROPE**

Apologised / Excusé

**INTERNATIONAL ORGANISATION OF EMPLOYERS /
ORGANISATION INTERNATIONALE DES EMPLOYEURS**

Dr Lucia SASSO-MAZZUFFERI, Avocat, Conseillère pour les Affaires internationales (1, 2)

OBSERVERS / OBSERVATEURS

ANDORRA / ANDORRE

Apologised / Excusé

AZERBAIJAN / AZERBAÏDJAN

Mr Azad TAGHIZADA, Head of the International Cooperation Department, Ministry of Labour and Social Protection of Population (1, 2)

BOSNIA AND HERZEGOVINA / BOSNIE-HERZÉGOVINE

Ms Amela HASIC, Ministry for Human Rights and Refugees (2)

GEORGIA / GEORGIE

Mr Lasha TCHIGLADZE, Head of the Division of Multilateral Treaty, International Law Department, Ministry of Foreign Affairs (1, 2, 3)

LIECHTENSTEIN

Apologised / Excusé

MONACO

M. Rémi MORTIER, Représentant Permanent Adjoint de la Principauté de Monaco auprès du Conseil de l'Europe (3)

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Ivan DUBOV, Deputy Director, Department of Legal and International Activities, Federal Service of Labour and Employment, Ministry of Health and Social Development (2, 3)

Mme Maria TKACH, Directrice Adjointe du Département de la Coopération internationale, Ministère du Travail et du Développement social (1)

SAN MARINO / SAINT-MARIN

Apologised / Excusé

SWITZERLAND / SUISSE

Mme Elisabeth IMESCH, Secteur Organisations internationales, Office fédéral des Assurances sociales, Département fédéral de l'Intérieur (1, 2)

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" /
"L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE"**

Ms Adrijana BAKEVA, Head of the European Integration Department, Ministry of Labour and Social Policy (1, 2)

UKRAINE

Mrs Natalija SAPON, Head of International Relations Department, Ministry of Labour and Social Policy (1, 2, 3)

Appendix II

CHART OF SIGNATURES AND RATIFICATIONS

Situation at 1 November 2004

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98	14/11/02	
Andorra	04/11/00		
Armenia	18/10/01	21/01/04	
Austria	07/05/99	29/10/69	
Azerbaijan	18/10/01	02/09/04	
Belgium	03/05/96	02/03/04	23/06/03
Bosnia and Herzegovina	11/05/04		
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	08/03/99	26/02/03	26/02/03
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	03/11/99	
Denmark	*	03/05/96	03/03/65
Estonia	04/05/98	11/09/00	
Finland	03/05/96	21/06/02	17/07/98 X
France	03/05/96	07/05/99	07/05/99
Georgia	30/06/00		
Germany	*	18/10/61	27/01/65
Greece	03/05/96	06/06/84	18/06/98
Hungary	07/10/04	08/07/99	
Iceland	04/11/98	15/01/76	
Ireland	04/11/00	04/11/00	04/11/00
Italy	03/05/96	05/07/99	03/11/97
Latvia	29/05/97	31/01/02	
Liechtenstein	09/10/91		
Lithuania	08/09/97	29/06/01	
Luxembourg	*	11/02/98	10/10/91
Malta	26/05/88	04/10/88	
Moldova	03/11/98	08/11/01	
Monaco	05/10/04		
Netherlands	23/01/04	22/04/80	
Norway	07/05/01	07/05/01	20/03/97
Poland	26/11/91	25/06/97	
Portugal	03/05/96	30/05/02	20/03/98
Romania	14/05/97	07/05/99	
Russian Federation	14/09/00		
San Marino	18/10/01		
Serbia and Montenegro			
Slovak Republic	18/11/99	22/06/98	
Slovenia	11/10/97	07/05/99	07/05/99
Spain	23/10/00	06/05/80	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland	06/05/76		
«the former Yugoslav Republic of Macedonia»	05/05/98		
Turkey	*	06/10/04	24/11/89
Ukraine	07/05/99		
United Kingdom	*	07/11/97	11/07/62
Number of States	46	8 + 37 = 45	17 + 18 = 35

The **dates in bold** on a grey background correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 Revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

Appendix III

LIST OF CASES OF NON-COMPLIANCE

- Bulgaria**
- Article 1§1
 - Article 1§2
 - Article 5
 - Article 6§3
 - Article 6§4
 - Article 7§1
 - Article 7§3
 - Article 7§4
 - Article 7§5
 - Article 7§6
 - Article 7§7
 - Article 7§8
 - Article 7§9
 - Article 12§1
 - Article 13§1
 - Article 16
- Cyprus**
- Article 1§2
 - Article 6§4
 - Article 7§1
 - Article 7§3
 - Article 12§4
 - Article 19§6
 - Article 19§8
 - Article 19§10
- Estonia**
- Article 6§4
 - Article 7§1
 - Article 7§3
 - Article 12§1
 - Article 12§4
 - Article 13§1
 - Article 19§6
 - Article 19§10
- France**
- Article 1§2
 - Article 5
 - Article 6§4
 - Article 7§2
 - Article 12§4
 - Article 13§1

- Ireland**
- Article 1§2
 - Article 5
 - Article 6§2
 - Article 6§4
 - Article 7§1
 - Article 7§3
 - Article 7§5
 - Article 12§4
 - Article 13§1
 - Article 19§6
 - Article 19§8
 - Article 19§10
- Italy**
- Article 7§1
 - Article 7§3
 - Article 7§5
 - Article 12§4
- Lithuania**
- Article 5
 - Article 6§4
 - Article 12§1
 - Article 12§4
 - Article 13§1
 - Article 13§3
 - Article 16
 - Article 19§7
 - Article 19§10
- Norway**
- Article 7§3
 - Article 7§5
 - Article 12§4
- Romania**
- Article 1§2
 - Article 5
 - Article 6§4
 - Article 7§1
 - Article 7§3
 - Article 12§1
 - Article 12§4
 - Article 16
- Slovenia**
- Article 6§3
 - Article 7§5
 - Article 7§10
 - Article 12§4
 - Article 16
 - Article 19§4
 - Article 19§8
 - Article 19§10

Sweden

- Article 5
- Article 6§4
- Article 7§2
- Article 7§3
- Article 7§9
- Article 19§7
- Article 19§8
- Article 19§10
- Article 20

Appendix IV

LIST OF DEFERRED CONCLUSIONS BECAUSE OF A QUESTION ASKED FOR THE FIRST TIME OR ADDITIONAL QUESTIONS

- Bulgaria**
- Article 1§3
 - Article 6§2
 - Article 7§2
 - Article 7§10
 - Article 12§3
 - Article 13§3
- Cyprus**
- Article 12§1
 - Article 13§3
 - Article 19§9
 - Article 20
- Estonia**
- Article 1§1
 - Article 1§2
 - Article 1§3
 - Article 5
 - Article 6§1
 - Article 6§2
 - Article 7§2
 - Article 7§4
 - Article 7§9
 - Article 7§10
 - Article 12§2
 - Article 12§3
 - Article 13§3
 - Article 19§1
 - Article 19§3
 - Article 19§4
 - Article 19§8
 - Article 19§11
 - Article 20
- France**
- Article 7§1
 - Article 7§5
 - Article 7§7
 - Article 13§4
 - Article 19§6
 - Article 19§11
 - Article 19§12

Ireland

- Article 7§2
- Article 7§4
- Article 7§6
- Article 7§7
- Article 7§8
- Article 7§9
- Article 7§10
- Article 19§11
- Article 19§12

Italy

- Article 7§2
- Article 7§4
- Article 19§4
- Article 19§6
- Article 19§8
- Article 19§10
- Article 19§12

Lithuania

- Article 1§1
- Article 1§2
- Article 1§3
- Article 6§2
- Article 6§3
- Article 7§3
- Article 7§5
- Article 7§10
- Article 12§3
- Article 19§3
- Article 19§5

Norway

- Article 1§2
- Article 6§4
- Article 7§1
- Article 7§2
- Article 7§6
- Article 7§8
- Article 12§3

Romania

- Article 1§1
- Article 1§3
- Article 6§1
- Article 6§3
- Article 7§2
- Article 7§4
- Article 7§5
- Article 7§6
- Article 7§7
- Article 7§8
- Article 7§9
- Article 7§10

- Article 12§2
- Article 12§3
- Article 13§1
- Article 13§2
- Article 13§3
- Article 20

Slovenia

- Article 1§1
- Article 1§2
- Article 6§4
- Article 7§1
- Article 7§2
- Article 7§3
- Article 7§7
- Article 7§8
- Article 7§9
- Article 12§1
- Article 12§2
- Article 13§3
- Article 19§1
- Article 19§2
- Article 19§3
- Article 19§5
- Article 19§11
- Article 20

Sweden

- Article 1§2
- Article 1§3
- Article 7§7
- Article 12§3

Appendix V

WARNING(S) AND RECOMMENDATION(S)

Warning

Article 19, paragraphs 8 and 10

– Slovenia

(Expulsion of migrant workers is possible in case of lack of sufficient financial resources)